

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF ARKANSAS VALLEY REGIONAL
INDUSTRIAL DEVELOPMENT COMPANY, LLC**

A.I.D. 2010- 062

CONSENT AGREEMENT AND ORDER

Now on this day, the matter of Arkansas Valley Regional Industrial Development Company, LLC (“Arkansas Valley”), comes before Jay Bradford, Insurance Commissioner of the State of Arkansas (“Commissioner”). This Consent Agreement and Order (the “Consent Order”) is entered into between the Arkansas Insurance Department (“Department”); Colonial Life & Accident Insurance Company, Provident Life and Accident Insurance Company, The Paul Revere Life Insurance Company, Unum Life Insurance Company of America (collectively “Unum”); Progressive Casualty Insurance Company, Progressive Classic Insurance Company, Progressive Direct Insurance Company (formerly known as Progressive Halcyon Insurance Company), Progressive Advanced Insurance Company (formerly known as Progressive Home Insurance Company), Progressive Northwestern Insurance Company, Progressive Specialty Insurance Company and United Financial Casualty Company (collectively “Progressive”); and Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Assurance Company (collectively “Nationwide”) (Unum, Progressive and Nationwide are collectively referred herein as the “Companies”. The Department and the Companies are collectively referred to herein as the “Parties”.) The Department was represented by Associate Counsel, Amanda Capps Rose, and Unum, Progressive and Nationwide were represented by the law firm Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. of Little Rock, Arkansas. The Parties hereto stipulate to the following:

1. The Commissioner has jurisdiction over the Parties and the subject matter herein.

2. Arkansas Valley was formed on or about November 4, 2002 pursuant to the County and Regional Industrial Development Company Act (the "Act"), Ark. Code Ann. §§ 15-4-1201, *et seq.*
3. Natural Gas Solutions Partners, LLC purchased units of interest from Arkansas Valley on December 15, 2003. On the same date, Natural Gas Solutions Partners, LLC transferred the associated tax credit to Natural Gas Solutions Capital, LLC.
4. Sea Heritage Partners, LLC purchased units of interest from Arkansas Valley on December 16, 2003. On the same date, Sea Heritage Partners, LLC transferred the associated tax credit to Sea Heritage Capital, LLC.
5. On July 15, 2004, Progressive purchased units of interest in Natural Gas Solutions Capital, LLC.
6. On August 5, 2004 and March 22, 2005, Nationwide purchased units of interest in Sea Heritage Capital, LLC.
7. In November 2004, Unum purchased units of interest in Sea Heritage Capital, LLC.
8. Progressive, Nationwide, and Unum filed amended 2003 Annual Report of Premium, Taxes, and Fees PC-T Form filings and the Department accepted the originals of those filings from Progressive, Nationwide, and Unum. Nationwide also filed an amended 2005 Annual Report of Premium, Taxes, and Fees PC-T, and the Department accepted the original filing. It also claimed a premium tax refund on its original 2004 filing. Nationwide never received any refund of premium taxes for the years 2003, 2004, and 2005.

9. For 2003, the Department refunded premium tax to Progressive in the total amount of nine hundred thirty-one thousand, eight hundred fifty-four dollars (\$931,854).

10. Progressive claimed premium tax credits for 2004 in the total amount of seven hundred fifty six thousand five hundred fifty five dollars (\$756,555.00¹).

11. Nationwide claimed premium tax credits for 2004 in the total amount of one million, two hundred seventy-three thousand, seven hundred seventy-six dollars (\$1,273,776).

12. For 2003, the Department refunded premium tax to Unum in the total amount of forty-four thousand, six hundred forty-four dollars (\$44,644).

13. Unum claimed premium tax credits for 2004 in the total amount of eight hundred ninety-two thousand, eight hundred eighty-eight dollars (\$892,883).

14. The Parties have a differing interpretation of relevant law, but have reached the compromise set forth herein.

15. Neither Unum, Progressive, nor Nationwide admit that the claimed premium tax credits or the refunded premium tax credits were unlawful or improper; however, in order to settle this matter with the Department, the companies have agreed to the following:

- a. Unum will pay the total amount of nine hundred thirty-seven thousand five hundred twenty-seven dollars (\$937,527.00) in two equal installments. This amount represents the total of the premium tax credits

¹ Although Progressive did claim a total of \$1,409,000 of Tax Credits on the tax returns, the Department never recognized these Tax Credits. The returns that Progressive filed showed total overpayments of \$652,445, which Progressive asked to be refunded. As a result of disallowing the Tax Credits, the Department never refunded these overpayments to Progressive. Consequently, the amount Progressive owes the Department is \$1,409,000-652,445, or \$756,555.

related to an interest in Arkansas Valley taken for 2003 and 2004. The first installment will be due within thirty (30) days of the execution of this Consent Agreement and Order. The second installment will be due within six (6) months of the first payment.

- b. Progressive will pay the total amount of one million six hundred eighty eight thousand four hundred nine dollars (\$1,688,409.00) in one lump sum payment. This amount represents the total of the premium tax credits related to an interest in Arkansas Valley taken for 2003 and 2004. The payment will be due within thirty (30) days of the execution of this Consent Agreement and Order.
- c. Nationwide will pay the total amount of five hundred thirty-seven thousand seven hundred ninety-seven dollars (\$537,797.00) in one lump sum payment. The payment will be due within thirty (30) days of the execution of this Consent Agreement and Order.²

16. The payments listed in paragraph fifteen (15) will be submitted with a form to be prepared and agreed upon by the Parties to specifically identify the nature of the

² Specifically, with regard to the 2004 tax year, Nationwide did not take any Tax Credits, however, Nationwide owes the following amounts to the Department.

The Department's June 19, 2009 letter from then Deputy Commissioner/General Counsel, Jay Morgan, regarding scheduling of an administrative hearing, reflects the Department's computation of Nationwide's liability as 100% of the Tax Credit claimed on Nationwide's 2004 Annual Report of Premiums, Taxes & Fees, ("Report") found on page 3, line 33. However, this liability should be reduced by the refund claimed with the returns, on page 3, lines 39 of the Report, as this amount was never refunded to Nationwide by Arkansas. The computation of Nationwide's tax liability is as follows:

Company	Line 33	Line 39	Net Due
Nationwide Mutual Insurance Company	853,591	497,099	356,492
Nationwide Mutual Fire Insurance Company	299,023	182,017	117,006
Nationwide Assurance Company	121,162	56,863	64,299
Total			537,797

payment. Said form(s) will be prepared and available at the time of execution of this Consent Agreement and Order.

17. In exchange for, and in consideration of, the payments, benefits, and other commitments described above, the Department accepts the terms hereunder as a full and complete compromise, settlement, resolution and accord and satisfaction of any and all known claims, rights, demands, debts, liabilities, damages, expenses, fees, interest, penalties, actions or causes of action of whatsoever nature, past, present or future, asserted or unasserted, liquidated or unliquidated, which the Department or the State of Arkansas may have against any of the Companies, including, without limitation, their respective officers, directors, shareholders, employees, agents, administrators, attorneys, servants, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, and their reinsurers, if any, arising from or pertaining in any manner to any matters discussed in this Consent Order and the Department hereby releases each of the Companies from any liability for any of the foregoing.
18. This Consent Order is executed and delivered as a compromise and settlement of disputed and contested claims and only to avoid the expense of further administrative action and/or litigation, and the making of this settlement is not to be construed as and does not constitute an admission of liability or wrongdoing on the part of any of the Parties hereto, by each of whom liability is expressly denied.
19. Neither this Consent Order nor any related negotiations, statements or court proceedings shall be offered by the Companies or the Department as evidence of or an admission, denial or concession of any liability or wrongdoing whatsoever

on the part of any person or entity, including but not limited to the Companies or any affiliates thereof, or as a waiver by the Companies or any affiliates thereof of any applicable defense, including without limitation any applicable statute of limitations or statute of frauds.

20. This is a Consent Order relating to separate Parties and shall in no way result in or imply that such Parties should have joint and several liability in connection with or in regards to any other Party.

IT IS SO ORDERED, DIRECTED, AND AGREED TO THIS 10th DAY OF JUNE, 2010.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

6/10/10

DATE

VERIFICATION

By execution hereof, Progressive Casualty Insurance Company, Progressive Classic Insurance Company, Progressive Direct Insurance Company (formerly known as Progressive Halcyon Insurance Company), Progressive Advanced Insurance Company (formerly known as Progressive Home Insurance Company), Progressive Northwestern Insurance Company, Progressive Specialty Insurance Company and United Financial Casualty Company (collectively "Progressive") consent to the entry of this Consent Agreement and Order and agree to be bound by all payment provisions herein. The undersigned represents that he or she has the authority to bind Progressive to the terms and conditions of this Consent Agreement and Order.

PROGRESSIVE CASUALTY INSURANCE
COMPANY

By: *[Signature]*

Its: Vice President

Date: 6/2/10

PROGRESSIVE CLASSIC INSURANCE
COMPANY

By: *[Signature]*

Its: SECRETARY

Date: 6/2/10

PROGRESSIVE DIRECT INSURANCE COMPANY
(FORMERLY KNOWN AS PROGRESSIVE HALCYON
INSURANCE COMPANY)

By: *[Signature]*

Its: secretary

Date: 6/2/10

PROGRESSIVE ADVANCED INSURANCE
COMPANY
(FORMERLY KNOWN AS PROGRESSIVE
HOME INSURANCE COMPANY)

By: 

Its: Secretary

Date: 6/2/10

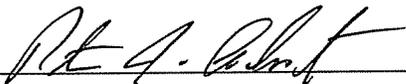
PROGRESSIVE NORTHWESTERN
INSURANCE COMPANY

By: 

Its: SECRETARY

Date: 6/2/10

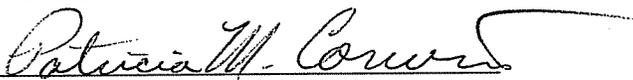
PROGRESSIVE SPECIALTY INSURANCE
COMPANY

By: 

Its: SECRETARY

Date: 6/2/10

UNITED FINANCIAL CASUALTY COMPANY

By: 

Its: SECRETARY

Date: 6/2/10

State of _____)

County of _____)

The foregoing instrument was signed and acknowledged before me on this _____ day of _____ by _____, personally known or made known to me.

NOTARY PUBLIC

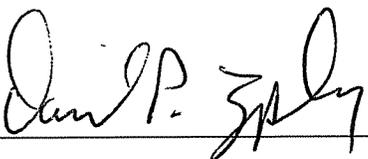
My commission expires:

VERIFICATION

By execution hereof, Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Assurance Company (collectively "Nationwide") consent to the entry of this Consent Agreement and Order and agree to be bound by all payment provisions herein. The undersigned represents that he or she has the authority to bind Nationwide to the terms and conditions of this Consent Agreement and Order.

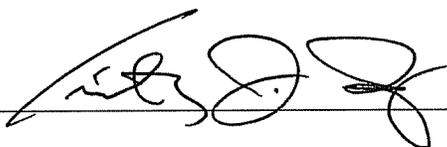
NATIONWIDE MUTUAL
INSURANCE COMPANY

NATIONWIDE MUTUAL
FIRE INSURANCE COMPANY

By:  _____

Title: Vice President – Tax Planning

NATIONWIDE ASSURANCE COMPANY

By:  _____

Title: Associate Vice President and Assistant Treasurer

State of Ohio)
)
County of Franklin)

The foregoing instrument was signed and acknowledged before me on this 8th day of June, 2010 by Daniel P. Eggle, personally known or made known to me.



NOTARY PUBLIC

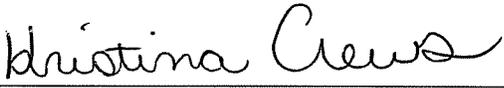
My commission expires:

DAVID E. SIMAITIS, Attorney at Law
Notary Public - State of Ohio
My Commission Has No Expiration Date
Section 147.03 O.R.C.

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Casualty Insurance Company, by Peter J. Albert, its Vice President.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



Notary Public

STATE OF OHIO)
) SS: KRISTINA CREWS
COUNTY OF CUYAHOGA) NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Classic Insurance Company, by Peter J. Albert, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



Notary Public

STATE OF OHIO)
) SS: KRISTINA CREWS
COUNTY OF CUYAHOGA) NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Direct Insurance Company (formerly known as Progressive Halcyon Insurance Company, by Michael R. Uth, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



Notary Public

KRISTINA CREWS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Advanced Insurance Company (formerly known as Progressive Home Insurance Company), by Michael R. Uth, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



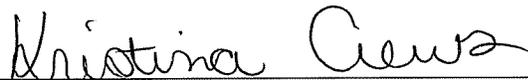
Notary Public

**KRISTINA CREWS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013**

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Northwestern Insurance Company, by Peter J. Albert, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



Notary Public

**KRISTINA CREWS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013**

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named Progressive Specialty Insurance Company, by Peter J. Albert, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



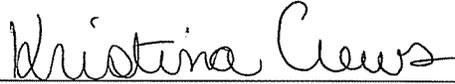
Notary Public

**KRISTINA CREWS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013**

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said county and state, personally appeared the above-named United Financial Casualty Company, by Patricia M. Corwin, its Secretary.

Sworn to before me and subscribed in my presence at Mayfield Village, Ohio this 2nd day of June, 2010.



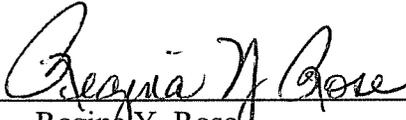
Notary Public

**KRISTINA CREWS
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES APRIL 17, 2013**

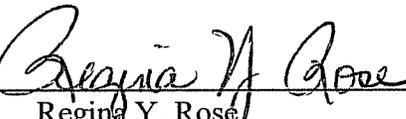
VERIFICATION

By execution hereof, Colonial Life & Accident Insurance Company, Provident Life and Accident Insurance Company, The Paul Revere Life Insurance Company, and Unum Life Insurance Company of America (collectively "Unum") consent to the entry of this Consent Agreement and Order and agree to be bound by all payment provisions herein. The undersigned represents that he or she has the authority to bind Unum to the terms and conditions of this Consent Agreement and Order.

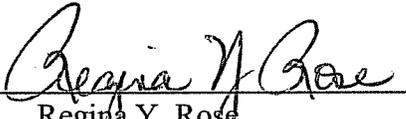
COLONIAL LIFE & ACCIDENT INSURANCE COMPANY

By: 
Regina Y. Rose
Senior Vice President, Tax

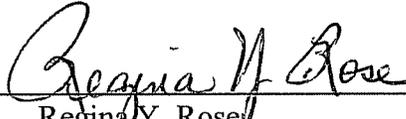
PROVIDENT LIFE AND ACCIDENT INSURANCE COMPANY

By: 
Regina Y. Rose
Senior Vice President, Tax

THE PAUL REVERE LIFE INSURANCE COMPANY

By: 
Regina Y. Rose
Senior Vice President, Tax

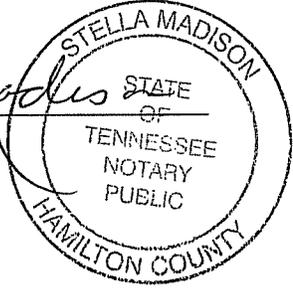
UNUM LIFE INSURANCE COMPANY OF AMERICA

By: 
Regina Y. Rose
Senior Vice President, Tax

State of Tennessee)
)
County of Hamilton)

The foregoing instrument was signed and acknowledged before me on this 18th day of June, 2010 by Regina Y. Rose, Senior Vice President, Tax of each of Colonial Life & Accident Insurance Company, Provident Life and Accident Insurance Company, The Paul Revere Life Insurance Company and Unum Life Insurance Company of America, personally known or made known to me.

Stella Madison
NOTARY PUBLIC



A circular notary seal for Stella Madison, Notary Public, Hamilton County, Tennessee. The seal contains the text: STELLA MADISON, STATE OF TENNESSEE, NOTARY PUBLIC, HAMILTON COUNTY.

My commission expires:

1-8-2014